

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHWESTERN DIVISION**

ROBERT LITTLETON, III.)	
)	
Petitioner,)	
)	
v.)	Case No. 3:19-cv-00804-MHH-JEO
)	
STATE OF ALABAMA,)	
)	
Respondent.)	

MEMORANDUM OPINION


On May 4, 2020, the magistrate judge entered a report in which he recommended that the Court dismiss Mr. Littleton's § 2254 petition for writ of habeas corpus without prejudice because the petition is successive, and Mr. Littleton has not obtained permission from the Eleventh Circuit Court of Appeals to file a successive petition. (Doc. 6). The parties were advised of their right to file specific written objections within 14 days (Doc. 6, pp. 5–6); the Court has not received objections.

After careful consideration of the record in this case, the record in Case No. 3:14-cv-371-RDP-JEO, and the magistrate judge's report, the Court adopts the report and accepts the magistrate judge's recommendation. The Court emphasizes footnote 3 in Judge Ott's report. (Doc. 6, p. 3, n.3). The state court judge was mistaken when he indicated in a July 12, 2018 order that Mr. Littleton was sentenced to only 12 months on Count 3, second-degree sexual abuse. (Doc. 1, p. 8). As the Alabama

Court of Criminal Appeals explained in its opinion in Mr. Littleton's direct appeal, the sentencing judge initially sentenced Mr. Littleton to seven years of custody on Count 3, one day later changed the sentence to 12 months, and then, following an appeal, properly reinstated the seven-year sentence on Count 3. (Doc. 7-4, p. 2, n.1 in Case No. 3:14-cv-371-RDP-JEO).

By separate order, the Court will dismiss this action. The Court will not issue a certificate of appealability, but Mr. Littleton may request a certificate from the Eleventh Circuit Court of Appeals. FED. R. APP. P. 22 (b).

DONE and **ORDERED** this June 2, 2020.



MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE